

CITE AS 13 MDLR 2004

THE COMMONWEALTH OF MASSACHUSETTS  
COMMISSION AGAINST DISCRIMINATION

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 \* 34. Appeals to Full Commission  
 \* 36.15 prima facie case + housing  
 \* discrimination  
 \* 36.22 pretext  
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 \* DOCKET NOS. 88-BPR-0190,  
 \* 88-BPR-0191  
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DEBORAH O'NEIL, ET AL.  
 Complainants

vs.

ANDREW KARAHLAIS, ET AL.  
 Respondents

Appearances: Ronald H. Traylor, Esquire, for the Complainant;  
 Timothy M. Corcoran, Esquire, for the Respondent

36.32 legitimate, non-discriminatory reason  
 36.35 business necessity  
 36.4 statistical evidence  
 52. Rentals  
 71.121 emotional distress damages

DECISION OF THE FULL COMMISSION

I. FULL COMMISSION REVIEW

The role of the full commission is delineated by statute, the Commission's Rules of Procedure, and the decisions of the Massachusetts Supreme Judicial Court. The full commission's function is to review the record before the hearing commissioner. M.G.L. c. 151B, §5. The findings of fact of the hearing commissioner must be supported by substantial evidence, defined as "...such evidence as a reasonable mind might accept as adequate to support a conclusion." Katz v. MCAD, 365 Mass. 357, 265 (1984). It is the proper role of the

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hearing commissioner to assess the credibility of the witnesses in deciding disputed questions of fact and the full commission defers to such determinations. School Committee of Chicopee v. MCAD, 361 Mass. 352, 280 N.E.2d 904 (1972); Bowen v. Colonnade Hotel, 4 MDLR 1007, 1011 (1982). The hearing commissioner's decision cannot be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law. 804 C.M.R. 1.16(8)(f).

We have carefully reviewed the Respondent's Petition For Review and all objections raised to the Hearing Commissioner's Decision in accordance with the standard of review articulated herein. Having carefully reviewed the record of the proceedings below and the Decision of the Hearing Commissioner, we find no material errors of law or fact. We also conclude that there is substantial evidence in the record to support the Hearing Commissioner's findings.

II. ORDER

For the reasons set forth above, we hereby affirm the Findings of Fact, Conclusions of Law and Order of the Hearing Commissioner.

Pursuant to the authority granted the Commission under Massachusetts General Law, Chapter 151B, Section 5, it is ordered that:

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1. Respondent shall cease and desist from denying Complainant and her two children the immediate possession of the premises located at 32 Perkins Street, Apartment 2, Salem, Massachusetts; and

2. Respondent shall cease and desist from engaging in any discriminatory conduct in violation of M.G.L. c. 151B, in the rental of any property which he or Karr Realty Trust owns, manages or controls; and

3. Respondent shall pay a total of Two Thousand Dollars (\$2,000) to Complainant Deborah O'Neil and Two Thousand Dollars (\$2,000) to each of her children, Brett Ferraro and Preston Ferraro, with interest on each award at the rate of 12% per annum from the time of the filing of the complaint until such date as payment is made or until such date as this obligation is reduced to a court judgment and post-judgment interest begins to accrue.

Any party aggrieved by this Order may file for judicial review pursuant to G. L. c. 151B, §6 and G. L. c. 30A, §14, within thirty (30) days of receipt thereof.

So Ordered this 21st day of October 1991.

  
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Michael T. Duffy, Commissioner

  
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Naomi Martell, Commissioner